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Filing date: **01/08/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213225
Party	Defendant Ability Dynamics, LLC
Correspondence Address	DAVID WADE SCHNELL THE NOBLITT GROUP PLLC 8800 N GAINEY CENTER DR , STE 279 SCOTTSDALE, AZ 85258-2123 UNITED STATES
Submission	Answer
Filer's Name	David Wade Schnell
Filer's e-mail	dwschnell@ngtechlaw.com
Signature	/David Wade Schnell/
Date	01/08/2014
Attachments	103320700OPP_2013_01_08_2014-01-08_Answer to Notice of Opposition_91213225 as FILED.pdf(2477504 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RUSH UNIVERSITY MEDICAL	)	
CENTER,	)	
	)	
	)	Trademark Application
	)	Serial No. 85/850,466
	)	
Opposer/Plaintiff,	)	Mark: RUSH
	)	
v.	)	Filed: February 14, 2013
	)	Published on: August 27, 2013
ABILITY DYNAMICS, LLC	)	Opposition No. 91/213,225
	)	
	)	
Applicant/Defendant.	)	
	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant Ability Dynamics, LLC (hereinafter "Applicant") hereby answers Opposer Rush University Medical Center (hereinafter "Opposer's") Notice of Opposition as follows:

1. Applicant admits the allegations in Paragraph 1.
2. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 2 and therefore denies the same.
3. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 3 and therefore denies the same.
4. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 4 and therefore denies the same.
5. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 5 regarding the asserted ownership of multiple trademarks for the RUSH marks and Opposer's use of the RUSH Marks as a primary identifier for its

services, and admits only to the existence of the Federal Registrations listed in the schedule.

6. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 6 and therefore denies the same.
7. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 7 and therefore denies the same.
8. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 8 regarding the Opposer's prior use of and rights in and to the RUSH Marks and admits only to the remainder of allegations in Paragraph 8.
9. Applicant admits the allegations in the first two sentences of Paragraph 9. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the remainder of allegations in Paragraph 9 and therefore denies the same.
10. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 10 and therefore denies the same
11. Applicant denies the allegations in Paragraph 11.
12. Applicant denies the allegations in Paragraph 12.
13. [No paragraph 13.]
14. Applicant admits the allegations in the first sentence of Paragraph 14. Applicant lacks information or knowledge sufficient to form a belief as to the truth of the remainder of allegations in the second sentence of Paragraph 14 and therefore denies the same.
15. Applicant denies the allegations in Paragraph 15.
16. Applicant denies the allegations in Paragraph 16.

### **AFFIRMATIVE DEFENSES**

17. Applicant generally denies each and every material allegation of Opposer's Notice of Opposition not expressly admitted herein and demands strict proof thereof.
18. Applicant's customers are sufficiently knowledgeable and sophisticated as to not be confused.
19. Applicant's use of its marks will not mistakenly be thought by the public to derive from the same source as Opposer's goods or services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.
20. Applicant's mark, when used on Applicant's good or services, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods or services by Opposer.
21. Opposer's Notice of Opposition is barred by the doctrine of unclean hands, *in pari delicto*, waiver, estoppels, acquiescence, and/or laches.
22. Opposer has suffered no harm and/or damages.
23. There is no likelihood of damage to Opposer if the mark is registered.
24. At all times, Applicant acted in a commercially reasonable and lawful manner.
25. Opposer's claims are barred since there is no likelihood of confusion in the marketplace.
26. There is no material confusion or mistake or likelihood of material confusion or mistake.
27. Applicant reserves its rights to affirmative defenses, to assert additional grounds to support a counterclaim, and to seek cancellation of any registered marks by Opposer as part of its grounds for opposing registration of Applicant's mark, as may be determined through discovery and/or the testimony periods in this opposition proceeding.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety, and that a registration issue to Applicant for its Mark.

Respectfully Submitted,



Date: January 08, 2014

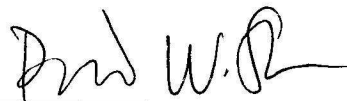
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David Wade Schnell  
The Noblitt Group, PLLC  
8800 North Gainey Center Drive, Suite 279  
Scottsdale, Arizona 85258  
Telephone (480) 994-9888  
Facsimile (480) 994-9025

Attorney for Applicant  
Ability Dynamics, LLC

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the attached ANSWER TO NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on January 8, 2014.



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David Wade Schnell

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served by First Class mail on January 9, 2014 postage prepaid, to Plaintiff and counsel for Plaintiff:

Rush University Medical Center  
1653 West Congress Parkway  
Chicago, IL 60612  
United States

Jennifer M. Mikulina  
Ulrika E. Mattsson  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, IL 60606  
United States

Dated: January 8, 2014



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David Wade Schnell